IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.1302 OF 2003
IN
SECOND APPEAL ST.NO.2149 OF 2002

Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Shri H.V.Kode for the Applicants.

Ms.Trupti Rangnekar for the Respondent No.3.

CORAM : ABHAY S.OKA, J.

DATED : 3rd Sept., 2004.

P.C.:

1. Heard the learned Counsel appearing for the Applicant and the Respondent No.3. This application is for condonation of delay. The Appliation is opposed by the Respondent No.3 by filing an affidavit-in-reply. One of the grounds for opposition is that the legal representatives of the Respondent No.3 Jairam Atmaram Gurav were not brougt on record during the pendency of the appeal in the District Court. The learned Counsel for the Applicants has pointed out that a separate Civil Application for bringing on record the legal representatives of the deceased is filed.

2. So far as the effect of death of the Appellant No.3 Jairam on the appeal preferred in

the District Court is concerned, the same will have to be considered when the Second Appeal is heard on merits.

3. Sufficient cause is made out for condonation of delay in view of the averments made in paragraphs 2 and 3 of the Civil Application. Hence the Application is allowed in terms of prayer clause (a) subject to the Applicants paying costs of Rs.2500/- to the Respondent No.3. The amount of costs shall be paid to the Respondent No.3 or deposited in this Court within a period of three weeks from today.

4. Amendment to be carried out within a period of four weeks from today.

5. Place the First Appeal along with other Civil Applications on 28th September 2004. Till 29th

1. If the entire amount of Court fee payable in the First Appeal is paid within a period of six weeks, the First Appeal will stand restored.

2. In addition to the notice through Court, the Advocate for the Appellant/ Applicant is directed to serve the Respondents by private notice. Private notice may be served personally and/or

through courier and/or by Regd.Post A.D.

Judge.